

AMENDED IN ASSEMBLY APRIL 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 323

Introduced by Assembly Member Parra

February 7, 2003

An act to amend ~~Section 999~~ *Sections 999, 999.2, 999.7, 999.9, 999.11, and 999.12* of the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

AB 323, as amended, Parra. Disabled veteran business enterprises.

Existing law establishes a 3% statewide participation goal for disabled veteran business enterprises for specified types of contracts, *and requires the Department of Veterans Affairs and the departments awarding the contracts to appoint disabled veteran business enterprise advocates to assist in meeting the participation goals.*

~~This bill would revise the definition of “disabled veteran business enterprise” to additionally require that such a business be a nonprofit community-based organization, incorporated in California, whose purpose is to provide employment training, transitional or shelter housing, and other services to veterans and their families.~~

This bill would additionally include nonprofit veteran service agencies, as defined, within the 3% statewide participation goal, require that each awarding department report on the level of participation by nonprofit veteran service agencies each year, and apply certain penalty provisions to nonprofit veteran service agencies. This bill would also require the advocates appointed by the Department

of Veterans Affairs and the awarding departments to perform additional duties related to nonprofit veteran service agencies.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 999 of the Military and Veterans Code
2 is amended to read:

3 999. As used in this article, the following definitions apply:

4 (a) “Administering agency” means the Treasurer in the case of
5 contracts for professional bond services, and the Department of
6 General Services’ Office of Small Business Certification and
7 Resources, formerly known as the Office of Small and Minority
8 Business, in the case of contracts governed by Section 999.2.

9 (b) “Awarding department” means any state agency,
10 department, governmental entity, or other officer or entity
11 empowered by law to issue bonds or enter into contracts on behalf
12 of the State of California.

13 (c) “Bonds” means bonds, notes, warrants, certificates of
14 participation, and other evidences of indebtedness issued by or on
15 behalf of the State of California.

16 (d) “Contract” includes any agreement or joint agreement to
17 provide professional bond services to the State of California or an
18 awarding department. “Contract” also includes any agreement or
19 joint development agreement to provide labor, services, material,
20 supplies, or equipment in the performance of a contract, franchise,
21 concession, or lease granted, let, or awarded for and on behalf of
22 the State of California.

23 (e) “Contractor” means any person or persons, regardless of
24 race, color, creed, national origin, ancestry, sex, marital status,
25 disability, religious or political affiliation, or age, or any sole
26 proprietorship, firm, partnership, joint venture, corporation, or
27 combination thereof who submits a bid and enters into a contract
28 with a representative of a state agency, department, governmental
29 entity, or other officer empowered by law to enter into contracts
30 on behalf of the State of California. “Contractor” includes any
31 provider of professional bond services who enters into a contract
32 with an awarding department.



(f) “Disabled veteran” means a veteran of the military, naval, or air service of the United States, including, but not limited to, the Philippine Commonwealth Army, the Regular Scouts (“Old Scouts”), and the Special Philippine Scouts (“New Scouts”), with a service-connected disability who is a resident of the State of California.

(g) (1) “Disabled veteran business enterprise” means a business concern certified by the administering agency as meeting all of the following requirements:

(A) It is a sole proprietorship at least 51 percent owned by one or more disabled veterans or, in the case of a publicly owned business, at least 51 percent of its stock is owned by one or more disabled veterans; a subsidiary which is wholly owned by a parent corporation, but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more disabled veterans; or a joint venture in which at least 51 percent of the joint venture’s management and control and earnings are held by one or more disabled veterans.

(B) The management and control of the daily business operations are by one or more disabled veterans. The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business concern.

(C) It is a sole proprietorship, corporation, or partnership with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business.

~~(D) It is a nonprofit community-based organization, incorporated in California, whose purpose is to provide employment training, transitional or shelter housing, and other services to veterans and their families.~~

(2) Notwithstanding paragraph (1), after the death or the certification of a permanent medical disability of a disabled veteran who is a majority owner of a business concern that qualified as a disabled veteran business enterprise prior to that death or certification of a permanent medical disability, and solely for purposes of any contract entered into before that death or certification, that business concern shall be deemed to be a disabled veteran business enterprise for a period not to exceed three years after the date of that death or certification of a

1 permanent medical disability, if the business concern is inherited
2 or controlled by the spouse or child of that majority owner, or by
3 both of those persons.

4 (h) “Foreign corporation,” “foreign firm,” and
5 “foreign-based business” means a business entity that is
6 incorporated or has its principal headquarters located outside the
7 United States of America.

8 (i) “Goal” means a numerically expressed objective that
9 awarding departments and contractors are required to make efforts
10 to achieve.

11 (j) “Management and control” means effective and
12 demonstrable management of the business entity.

13 (k) “Nonprofit veteran service agency” means a
14 community-based organization, exempt from tax under Section
15 501(c)(3) of the Internal Revenue Code, that is certified by the
16 administering agency as meeting the following requirements:

17 (1) *The organization’s purpose is to provide housing, substance*
18 *abuse, case management, and employment training services for*
19 *low-income, disabled, and homeless veterans and their families.*

20 (2) *The organization will employ program participants in*
21 *performing contracts acquired pursuant to this article.*

22 (l) “Professional bond services” include services as financial
23 advisers, bond counsel, underwriters in negotiated transactions,
24 underwriter’s counsel, financial printers, feasibility consultants,
25 and other professional services related to the issuance and sale of
26 bonds.

27 SEC. 2. *Section 999.2 of the Military and Veterans Code is*
28 *amended to read:*

29 999.2. Notwithstanding any other provision of law, contracts
30 awarded by any state agency, department, officer, or other state
31 governmental entity, including school districts when they are
32 expending state funds for construction, professional services
33 (except those subject to Chapter 6 (commencing with Section
34 16850) of Part 3 of Division 4 of Title 2 of the Government Code),
35 materials, supplies, equipment, alteration, repair, or improvement
36 shall have statewide participation goals of not less than 3 percent
37 for disabled veteran business enterprises *or nonprofit veteran*
38 *service agencies*. These goals apply to the overall dollar amount
39 expended each year by the awarding department.

1 *SEC. 3. Section 999.7 of the Military and Veterans Code is*
2 *amended to read:*

3 999.7. (a) Notwithstanding Section 7550.5 of the
4 Government Code, on January 1 of each year, each awarding
5 department shall report to the Governor, the Legislature, the Office
6 of Small Business Certification and Resources, and the
7 Department of Veterans Affairs on the level of participation by
8 disabled veteran business enterprises *and nonprofit veteran*
9 *service agencies* in contracts identified in this article for the
10 previous fiscal year. If the established goals are not met, the
11 awarding department shall report to the Legislature, the Office of
12 Small Business Certification and Resources, and the Department
13 of Veterans Affairs the reasons for the awarding department's
14 inability to achieve the goals and identify steps it shall take in an
15 effort to achieve the goals.

16 (b) Notwithstanding Section 7550.5 of the Government Code,
17 on April 1 of each year, the Office of Small Business Certification
18 and Resources shall prepare for the Governor, the Legislature, and
19 the Department of Veterans Affairs a statewide statistical summary
20 detailing each awarding department's goal achievement and a
21 statewide total of those goals.

22 *SEC. 4. Section 999.9 of the Military and Veterans Code is*
23 *amended to read:*

24 999.9. (a) It shall be unlawful for a person to:

25 (1) Knowingly and with intent to defraud, fraudulently obtain,
26 retain, attempt to obtain or retain, or aid another in fraudulently
27 obtaining or retaining or attempting to obtain or retain,
28 certification as a disabled veteran business enterprise *or a*
29 *nonprofit veteran service agency* for the purpose of this article.

30 (2) Willfully and knowingly make a false statement with the
31 intent to defraud, whether by affidavit, report, or other
32 representation, to a state official or employee for the purpose of
33 influencing the certification or denial of certification of any entity
34 as a disabled veteran business enterprise *or a nonprofit veteran*
35 *service agency*.

36 (3) Willfully and knowingly obstruct, impede, or attempt to
37 obstruct or impede, any state official or employee who is
38 investigating the qualifications of a business entity ~~which~~ *that* has
39 requested certification as a disabled veteran business enterprise *or*
40 *nonprofit veteran service agency*.

1 (4) Knowingly and with intent to defraud, fraudulently obtain,
2 attempt to obtain, or aid another person in fraudulently obtaining
3 or attempting to obtain, public moneys to which the person is not
4 entitled under this article.

5 (b) Any person who violates any of the provisions of
6 subdivision (a) shall be liable for a civil penalty not to exceed five
7 thousand dollars (\$5,000) for the first violation, and a civil penalty
8 not to exceed twenty thousand dollars (\$20,000) for each
9 additional or subsequent violation.

10 (c) Any person who violates subdivision (a) shall, in addition
11 to the penalties provided for in subdivision (b), be suspended from
12 bidding on, or participating as either a contractor, subcontractor,
13 or supplier in, any state contract or project for a period of not less
14 than 30 days nor more than one year. However, for an additional
15 or subsequent violation the period of suspension shall be extended
16 for a period of up to three years. Any business or person who fails
17 to satisfy the penalties imposed pursuant to subdivisions (b) and
18 (c) shall be prohibited from further contracting with the state until
19 the penalties are satisfied.

20 (d) The awarding department shall report all alleged violations
21 of this section to the Office of Small and Minority Business. The
22 office shall subsequently report all alleged violations to the
23 Attorney General who shall determine whether to bring a civil
24 action against any person or firm for violation of this section.

25 (e) The office shall monitor the status of all reported violations
26 and shall maintain and make available to all state departments a
27 central listing of all firms and persons who have been determined
28 to have committed violations resulting in suspension.

29 (f) No awarding department shall enter into any contract with
30 any person suspended for violating this section during the period
31 of the person's suspension. No awarding department shall award
32 a contract to any contractor utilizing the services of any person as
33 a subcontractor suspended for violating this section during the
34 period of the person's suspension.

35 (g) The awarding department shall check the central listing
36 provided by the office to verify that the person or contractor to
37 whom the contract is being awarded, or any person being utilized
38 as a subcontractor or supplier by that person or contractor, is not
39 under suspension for violating this section.

1 SEC. 5. Section 999.11 of the Military and Veterans Code is
2 amended to read:

3 999.11. The Department of Veterans Affairs shall appoint an
4 advocate to do all of the following:

5 (a) Oversee, promote, and coordinate efforts to facilitate
6 implementation of this article.

7 (b) Disseminate information on this article.

8 (c) Coordinate reports pursuant to Section 999.7.

9 (d) Coordinate with administering agencies and existing and
10 potential disabled veteran business enterprises *and nonprofit*
11 *veteran service agencies* to achieve the goals specified in Sections
12 999.1 and 999.2.

13 (e) Coordinate with the disabled veteran business enterprise
14 advocates appointed in all awarding departments pursuant to
15 Section 999.12.

16 SEC. 6. Section 999.12 of the Military and Veterans Code is
17 amended to read:

18 999.12. Each awarding department shall appoint an agency
19 disabled veteran business enterprise advocate. This person shall be
20 the same individual appointed pursuant to Section 14846 of the
21 Government Code. The disabled veteran business enterprise
22 advocate shall do all of the following:

23 (a) Assist certified disabled veteran business enterprises *and*
24 *certified nonprofit veteran service agencies* in participating in that
25 agency's contracting process.

26 (b) Assist contract officers in seeking disabled veteran business
27 enterprises *and certified nonprofit veteran service agencies* to
28 participate in the agency's contract and procurement activities.

29 (c) Disseminate information to the agency's contract and
30 procurement staff.

31 (d) Serve as an advocate for the disabled veteran business
32 enterprises *and nonprofit veteran service agencies* that are utilized
33 as the agency's contractors or subcontractors.

34 (e) Report to the Office of Small Business Certification and
35 Resources regarding any violation of this article.

36 (f) Coordinate with the state disabled veteran business
37 enterprise advocate at the Department of Veterans Affairs in an
38 effort to meet the statewide 3-percent ~~goal~~ *goals for disabled*

- 1 *veteran business enterprises and nonprofit veteran service*
- 2 *agencies* provided for in Section 999.2.

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